IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 377 of 2003

IN

SUMMARY SUIT NO. 2367 of 2002

Thomson Press(India)Ltd. ... Plaintiff

versus

Sawant Food Products Ltd. ....Defendant

...

Ms.Nandini Menon for the plaintiff.

Mr.C.S. Kapadia i/b M & M Legal Venture for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 12th January 2005.

P.C.:

1. Heard the learned counsel for the plaintiff and the learned counsel for the defendant.

2. The learned counsel for the defendant admits that the Summons for Judgement was served in the year 10th May 2003. Despite service of writ of summons nearly 20 months ago, the defendant has neither filed

an affidavit in reply nor has he filed an application for leave to defend. In the circumstances, plaintiff is entitled to a decree under Rule 221 of the Bombay High Court (Original Side) Rules r/w clause (a) of sub rule (6) of Rule 3 of Order 37 of the Code of Civil Procedure.

3. The request made by the learned counsel for the defendant to grant him further time to file an affidavit in reply is rejected in view of a passage of nearly 20 months from the date of service and in the absence of any appropriate reason for condonation of such a long delay.

4. At the hearing of Summons for Judgement, the learned counsel for the plaintiff gives up the claim for interest prior to the date of the institution of the suit. Hence, the plaintiff would be entitled to a decree in respect of the principal sum. Accordingly, Summons for Judgement is made absolute and the suit of the plaintiff is decreed as follows:-

5. The defendant shall pay to the plaintiff a sum of Rs.1,14,750/0 together with interest thereon at 6% p.a. from the date of the suit till payment and all costs of the suit.

D.G. KARNIK, J